

AMENDED IN SENATE MAY 31, 2012

AMENDED IN ASSEMBLY APRIL 24, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 2164**

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**Introduced by Assembly Member Dickinson**

February 23, 2012

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An act to amend Section 13332.11 of the Government Code, relating to community college facilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2164, as amended, Dickinson. Community college facilities.

Existing law generally requires the approval of the Department of Finance and the State Public Works Board before a state agency, including, among others, the California Community Colleges, may expend funds from an appropriation for capital outlay purposes. With respect to the California Community Colleges, this approval is only required for the allocation of state capital outlay funds appropriated by the Legislature.

This bill would ~~exempt from this requirement amounts incurred by a community college district, after the date of final project proposal approval by the Board of Governors of the California Community Colleges. The bill would provide that these amounts may be reimbursed pursuant to approval of preliminary plans by the Department of Finance and the State Public Works Board and an appropriation by the Legislature of funds for specified project phases~~ *authorize a community college district to receive reimbursement for amounts incurred by the community college district through the expenditure of local funds for*

*capital outlay projects, before revenues are available from a state general obligation bond approved by the electorate, after the date of the final project proposal approval by the Board of Governors of the California Community Colleges, after approval of preliminary plans by the Department of Finance and the State Public Works Board, and after an appropriation by the Legislature of funds for one or more specified project phases. The bill would apply specified requirements to the receipt of this reimbursement. The bill would make these provisions inoperative on January 1, 2018.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13332.11 of the Government Code is  
2 amended to read:  
3 13332.11. (a) (1) Except as otherwise specified in paragraph  
4 (2), no funds appropriated for capital outlay may be expended by  
5 any state agency, including the University of California, the  
6 California State University, the California Community Colleges,  
7 and the Judicial Council until the Department of Finance and the  
8 State Public Works Board have approved preliminary plans for  
9 the project to be funded from a capital outlay appropriation.  
10 (2) Paragraph (1) shall not apply to any of the following:  
11 (A) Amounts for acquisition of real property in fee, or any other  
12 lesser interest.  
13 (B) Amounts for equipment or minor capital outlay projects.  
14 (C) Amounts appropriated for preliminary plans, surveys, and  
15 studies.  
16 ~~(D) (i) Amounts incurred by a community college district, after~~  
17 ~~the date of final project proposal approval by the Board of~~  
18 ~~Governors of the California Community Colleges. Amounts~~  
19 ~~incurred pursuant to this subparagraph may be reimbursed pursuant~~  
20 ~~to approval of preliminary plans by the Department of Finance and~~  
21 ~~the State Public Works Board and an appropriation by the~~  
22 ~~Legislature, in the annual Budget Act or related legislation, of~~  
23 ~~funds for one or more of the following project phases: preliminary~~  
24 ~~plans, working drawings, construction, and equipment. Amounts~~  
25 ~~reimbursed pursuant to this subparagraph shall be subject to the~~

1 ~~Legislature's determination of the appropriate scope and cost of~~  
2 ~~the project.~~

3 ~~(ii) This subparagraph shall be inoperative on January 1, 2018.~~

4 (b) Notwithstanding subdivision (a), approvals by the State  
5 Public Works Board and the Department of Finance for the  
6 University of California and the California Community Colleges  
7 shall apply only to the allocation of state capital outlay funds  
8 appropriated by the Legislature, including land acquisition and  
9 equipment funds.

10 (c) (1) *A community college district may receive reimbursement*  
11 *for amounts incurred by the community college district through*  
12 *the expenditure of local funds for capital outlay projects, before*  
13 *revenues are available from a state general obligation bond*  
14 *approved by the electorate, after the date of the final project*  
15 *proposal approval by the Board of Governors of the California*  
16 *Community Colleges, after approval of preliminary plans by the*  
17 *Department of Finance and the State Public Works Board, and*  
18 *after an appropriation by the Legislature, in the annual Budget*  
19 *Act or related legislation, of funds for one or more of the following*  
20 *project phases: preliminary plans, working drawings, construction,*  
21 *and equipment. Amounts reimbursed pursuant to this subdivision*  
22 *shall be subject to the Legislature's determination of the*  
23 *appropriate scope and cost of the project at the time of the*  
24 *appropriation.*

25 (2) *All of the following requirements shall apply to receive*  
26 *reimbursement pursuant to this subdivision:*

27 (A) *Before incurring amounts, a community college district*  
28 *shall demonstrate to the Office of the Chancellor of the California*  
29 *Community Colleges that sufficient local funds are available to*  
30 *fully pay for a project without reimbursement and without causing*  
31 *fiscal hardship to the district.*

32 (B) *A community college district shall comply with all state and*  
33 *federal laws, including, but not limited to, Section 1771.3 of the*  
34 *Labor Code, governing the expenditure of state bond funds for use*  
35 *on facility construction projects.*

36 (C) *The expenditures made by a community college district shall*  
37 *be eligible for reimbursement in accordance with applicable state*  
38 *and federal laws and procedures.*

1     (D) Amounts incurred pursuant to this subparagraph shall only  
2     be reimbursed pursuant to a state general obligation bond  
3     approved by the electorate on or before December 31, 2016.

4     (3) This subdivision shall become inoperative on January 1,  
5     2018.

6     ~~(e)~~

7     (d) Any appropriated amounts for working drawings or  
8     construction where the working drawings or construction have  
9     been started by any state agency prior to approval of the  
10    preliminary plans by the State Public Works Board shall be reverted  
11    to the fund from which the appropriation was made, as approved  
12    by the Department of Finance. No major project for which a capital  
13    outlay appropriation is made shall be put out to bid until the  
14    working drawings have been approved by the Department of  
15    Finance. No substantial change shall be made to the approved  
16    preliminary plans or approved working drawings without written  
17    approval by the Department of Finance. Any proposed construction  
18    bid alternates shall be approved by the Department of Finance.

19    ~~(d)~~

20    (e) The Department of Finance shall approve the use of funds  
21    from a capital outlay appropriation for the purchase of any  
22    significant unit of equipment.

23    ~~(e)~~

24    (f) The State Public Works Board may augment a major project  
25    in an amount of up to 20 percent of the total of the capital outlay  
26    appropriations for the project, irrespective of whether any of those  
27    appropriations have reverted. For projects authorized through  
28    multiple fund sources, including, but not limited to, general  
29    obligation bonds and lease-revenue bonds, to the extent otherwise  
30    permissible, the Department of Finance shall have full authority  
31    to determine which of the fund sources will bear all or part of an  
32    augmentation. The board shall defer all augmentations in excess  
33    of 20 percent of the amount appropriated for each capital outlay  
34    project until the Legislature makes additional funds available for  
35    the specific project.

36    ~~(f)~~

37    (g) In addition to the powers provided by Section 15849.6, the  
38    State Public Works Board may further increase the additional  
39    amount in Section 15849.6 to include a reasonable construction  
40    reserve within the construction fund for any capital outlay project

1 without augmenting the project. The amount of the construction  
2 reserve shall be within the 20-percent augmentation limitation.  
3 The board may use this amount to augment the project, when and  
4 if necessary, after the lease-revenue bonds are sold to ensure  
5 completion of the project. Upon completion of the project, any  
6 amount remaining in the construction reserve funds shall be used  
7 to offset rental payments.

8 ~~(g)~~

9 *(h)* Augmentations in excess of 10 percent of the amount  
10 appropriated for each capital outlay project shall be reported to  
11 the Chairperson of the Joint Legislative Budget Committee, or his  
12 or her designee, 20 days prior to board approval, or not sooner  
13 than whatever lesser time the chairperson, or his or her designee,  
14 may in each instance determine.

15 ~~(h)~~

16 *(i)* (1) The Department of Finance may change the  
17 administratively or legislatively approved scope for major capital  
18 outlay projects.

19 (2) If the Department of Finance changes the approved scope  
20 pursuant to paragraph (1), the department shall report the changes  
21 and associated cost implications to the Chairperson of the Joint  
22 Legislative Budget Committee, the chairpersons of the respective  
23 fiscal committees, and the legislative advisers of the State Public  
24 Works Board 20 days prior to the proposed board action to  
25 recognize the scope change.

26 ~~(i)~~

27 *(j)* The State Public Works Board shall defer action with respect  
28 to approval of an acquisition project, when it is determined that  
29 the estimated cost of the total acquisition project, as approved by  
30 the Legislature is in excess of 20 percent of the amount  
31 appropriated, unless it is determined that a lesser portion of the  
32 property is sufficient to meet the objectives of the project approved  
33 by the Legislature, and the Chairperson of the Joint Legislative  
34 Budget Committee, or his or her designee, is provided a 20-day  
35 prior notification of the proposed reductions in the acquisition  
36 project, or whatever lesser period the chairperson, or his or her  
37 designee, may in each instance determine.

38 ~~(j)~~

39 *(k)* The Department of Finance shall report to the Chairperson  
40 of the Joint Legislative Budget Committee, the chairpersons of the

1   respective fiscal committees, and legislative advisers of the State  
2   Public Works Board 20 days prior to the proposed board approval  
3   of preliminary plans when it is determined that the estimated cost  
4   of the total capital outlay construction project is in excess of 20  
5   percent of the amount recognized by the Legislature.  
6   ~~(k)~~  
7   *(l)* Nothing in this section shall be construed to limit or control  
8   the Department of Transportation or the California Exposition and  
9   State Fair in the expenditure of all funds appropriated to the  
10  department for capital outlay purposes.

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